

KTF:KPO
F. #2023R00763

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

- against -

KENNETH APONTE and [REDACTED],
Defendants.

COMPLAINT & AFFIDAVIT
IN SUPPORT OF AN
APPLICATION FOR AN
ARREST WARRANT

(21 U.S.C. §§ 963 and 960(b)(2))

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EASTERN DISTRICT OF NEW YORK, SS:

Ryan Shipley, being duly sworn, deposes and states that he is a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations, duly appointed according to law and acting as such.

On or about and between October 22, 2023, and April 26, 2024, within the Eastern District of New York and elsewhere, the defendants KENNETH APONTE and [REDACTED], together with others, did knowingly and intentionally conspire to import a controlled substance into the United States from a place outside thereof, which offense involved a substance containing cocaine, a Schedule II controlled substance, contrary to Title 21, United States Code, Sections 952(a) and 960(b)(2).

(Title 21, United States Code, Sections 963 and 960(b)(2))

The source of your deponent's information and the grounds for his belief are as follows:¹

¹ Because the purpose of this Complaint is to set forth only those facts necessary

1. I am a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations (“HSI”) and have been since 2018. I have been involved in the investigation of numerous cases involving narcotics importation and distribution. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant’s criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. Since at least approximately October 2022 and through the present, HSI and other law enforcement agencies have been investigating the importation of cocaine into the Eastern District of New York by the defendants KENNETH APONTE and [REDACTED].

3. On or about and between October 4, 2023, and March 8, 2024, an undercover law enforcement officer (the “UC”) made approximately thirteen purchases of controlled substances from the defendant KENNETH APONTE, including purchasing a total of more than 400 grams of a substance containing N-phenyl-N- [1- (2-phenylethyl) -4-piperidinyl] propenamide (fentanyl), more than 100 grams of a substance containing a detectable amount of an analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide (fentanyl analogue) and a total of more than 500 grams of a substance containing cocaine. While the UC typically arranged to purchase heroin, the substances APONTE actually sold were a mix of controlled substances including heroin and fentanyl; substances from approximately six of the purchases also included a fentanyl analogue. The UC typically used an audio and video recording device during the purchases.

to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

4. On or about March 16, 2024, the defendant KENNETH APONTE also sold the UC a Llama Firearms .45 caliber black handgun bearing serial number 11459-95 as well as two magazines and a total of approximately 25 rounds of ammunition.

5. During the sales, the defendant KENNETH APONTE reported to the UC that he worked with a partner and explained methods that APONTE and his partner used to import at least some of the cocaine that APONTE sold.

6. The defendant [REDACTED] previously sold cocaine and heroin containing fentanyl in another criminal case. On October 12, 2022, pursuant to a complaint and arrest warrant signed by the Honorable Marcia M. Henry, Magistrate Judge of the United States Court for the Eastern District of New York (No. 22-MJ-1079), Jahan Norman was charged with possession with intent to distribute heroin and fentanyl. Pursuant to a search warrant authorized by the Honorable Robert Levy, Magistrate Judge of the United States Court for the Eastern District of New York (No. 22-MJ-1090), on October 12, 2022, law enforcement agents seized a cell phone belonging to Norman that contained correspondence with the defendant KENNETH APONTE and [REDACTED]. Specifically, it identified that Norman generally bought cocaine and heroin containing fentanyl from [REDACTED]. However, periodically [REDACTED] referred Norman to APONTE. Norman and APONTE corresponded about Norman purchasing “fetty” from APONTE. Based on my training and experience, I understand this to mean purchasing heroin mixed with fentanyl.

7. On or about April 3, 2024, the defendant [REDACTED] traveled to Newark Liberty International Airport (“Newark Airport”) in Newark, New Jersey from the Dominican Republic. Upon [REDACTED] entering the country, agents conducted a border search of [REDACTED] phone (the “Phone”). The Phone contained WhatsApp messages between the

defendant KENNETH APONTE and [REDACTED] in which they discussed drug trafficking. For example:

- a. On or about November 9, 2023, APONTE sent [REDACTED] a photograph of compressed white powdery substance on a scale with the scale showing the numbers “204,” and a message that said “204.” Based on my training and experience, I believe that APONTE sent [REDACTED] a photograph of approximately 204 grams of cocaine.
 - b. In an undated message, the defendant KENNETH APONTE sent the defendant [REDACTED] a photograph of compressed white powdery substance in a bag and a message that said “That’s 648.” Based on my training and experience, I believe that APONTE sent [REDACTED] a photograph of approximately 648 grams of cocaine.
8. The defendant KENNETH APONTE told the UC that he and his partner relied on a courier traveling via commercial airlines to import cocaine into the Eastern District of New York and elsewhere. Additional messages on the Phone confirm this. On or about October 22, 2023, SIME sent a message to APONTE that said, in sum and substance and in part “Don’t tell [person] but [that person] comes w 5 not 4 this trip[.]” APONTE responded with information about a flight arrival time. Based on my training and experience, I believe that the defendants [REDACTED] and APONTE were discussing a courier traveling into JFK, carrying five kilograms of cocaine, not four kilograms of cocaine.
9. On that same day, October 22, 2023, an individual whose identity is known to me (“Individual-1”) arrived at John F. Kennedy International Airport (“JFK”) in Queens, New York from the Dominican Republic.

10. On or about April 26, 2024, Individual-1 was stopped by law enforcement agents as Individual-1 attempted to enter the United States through Newark Airport. During a border inspection, law enforcement agents discovered that Individual-1 was carrying approximately 1.57 kilograms of a compressed white powdery substance wrapped around Individual-1's body. This substance tested positive for cocaine using a field test. Individual-1 consented to an interview following Individual 1's arrest. During this interview, Individual-1 told me the following, in sum and substance and in part: the defendant KENNETH APONTE coordinated with people in the Dominican Republic for Individual-1 to import one kilogram of cocaine. Individual-1 would provide Aponte with imported cocaine upon Individual-1's arrival in New York. On or about January 26, 2024, Individual-1 made two round trips between the New York City-area and Dominican Republic to import cocaine. Individual-1 traveled from Newark Airport to the Dominican Republic then back to JFK and made a second trip to the Dominican Republic traveling from and into JFK, on January 26, 2024. Individual-1 couriered cocaine into JFK both times that day.

11. On or about January 26, 2024, law enforcement agents surveilled the defendant KENNETH APONTE meeting Individual-1 at JFK and driving Individual-1 to a residence registered to the defendant [REDACTED]. During the April 3, 2024 border search, I observed a message from [REDACTED] to APONTE on January 26, 2024 which contained the arrival time for Individual-1's second flight into JFK.

WHEREFORE, your deponent respectfully requests that arrest warrants be issued so that the defendants, KENNETH APONTE and [REDACTED] may be dealt with according to law. I further request that the Court order this application, including the affidavit and arrest warrant, be sealed until further order of the Court. These documents discuss an ongoing

criminal investigation. Disclosure of this application and these orders would seriously jeopardize the ongoing investigation, as such a disclosure would give the target of the investigation an opportunity to destroy evidence, harm or threaten victims or other witnesses, change patterns of behavior, notify confederates and flee from prosecution.

/s/ Ryan Shipley

Ryan Shipley

Special Agent, United States Department of
Homeland Security, Homeland Security
Investigations

by telephone

Sworn to before me [^]this
1st day of May, 2024

Marcia M. Henry

THE HONORABLE MARCIA M. HENRY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America

v.

KENNETH APONTE

340

Case No. 24-M_-____

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
 (name of person to be arrested) KENNETH APONTE,
 who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☒ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

21 U.S.C. §§ 963 and 960(b)(2) - Conspiracy to import a controlled substance (cocaine)

Date: May 1, 2024*Marcia M. Henry**Issuing officer's signature*City and state: Brooklyn, New YorkMarcia M. Henry, U.S. Magistrate Judge*Printed name and title*

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
 at (city and state) _____.

Date: _____

*Arresting officer's signature**Printed name and title*